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Attorneys for Defendants  
 Aetna Health, Inc. and  
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UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA

VALLEY HEALTH SYSTEM LLC et al.,	)	
	)	No. 2:15-cv-01457-JCM-NJK
Plaintiffs,	)	
	)	<b>JOINT MOTION TO AMEND</b>
vs.	)	<b>SCHEDULING ORDER AND</b>
	)	<b>DISCOVERY PLAN</b>
AETNA HEALTH, INC. et al.,	)	
	)	<b>(Fifth Request for Extension)</b>
Defendants.	)	
	)	Trial Date: None set

Pursuant to LR IA 6-1 and LR 26-4, Plaintiffs Valley Health System, LLC and Summerlin Hospital Medical Center, LLC (“Valley Health” or “Plaintiffs”) and Defendants Aetna Health, Inc. and Aetna Health Management, LLC (“Aetna” or “Defendants”) (collectively, the “Parties”) jointly move to amend the October 5, 2015 Scheduling Order and Discovery Plan [Doc. 30], as amended on January 29, 2016 [Doc. 37], June 14, 2016 [Doc.40], September 27, 2016 [Doc. 77], and November 1, 2016 [Doc. 91] (the “Scheduling Order”), to extend the deadlines in this case as set forth below. This is the fifth motion to extend deadlines.

## **I. Pending Motions and Hearings**

Valley Health currently has four motions pending before this Court. Two of these motions are discovery motions; the remaining two motions challenge Aetna's counterclaims:

- Motion to Compel Further Discovery. This Motion has been fully briefed and is scheduled for oral argument on December 21, 2016. [Doc. 97.]
- Motion to Strike Aetna's Expert Designation and Report of Henry Miller. This Motion will be fully briefed on December 9, 2012.
- Motion to Dismiss Aetna's Counterclaims. This Motion has been fully briefed. [Docs. 55, 59.]
- Motion to Compel Arbitration. This Motion has been fully briefed [Docs. 58 and 60.] It, too, is scheduled for oral argument on December 21, 2016. [Doc. 103.]

The outcome of the discovery motions will likely impact the scope and amount of discovery. Although parties have continued to move forward with written discovery relating to Aetna's counterclaims pending the resolution of these motions, they believe that the outcome of the latter two motions is also likely to have an impact on the timing and scope of discovery on Aetna's counterclaims.

The Court set a hearing for Valley Health's Motion to Compel Further Discovery and Motion to Compel Arbitration on December 21, 2016; however, Aetna's counsel has a conflict on the date. The parties will be available on or after January 16, 2017 and have filed a separate request (filed concurrently with this request) that respectfully asks the Court to continue the December 21, 2016 hearing date to accommodate Aetna's scheduling conflict.

## **II. Discovery Completed and Remaining to Be Completed**

### **1. Written Discovery**

Since the Court's last amendment to the Scheduling Order, the Parties have continued to produce documents in this case. Valley Health produced additional documents on November 10, 11, 14 and 30, and on December 1. Aetna produced additional documents on December 6, and anticipates producing additional documents in December relating to its counterclaim. The Parties have produced the vast majority of documents that will need to be produced in this case.

1 Indeed, Aetna has produced 312,780 pages of documents, and Valley Health has produced  
2 approximately 447,856 pages.

3 However, despite the parties' good-faith efforts to complete document production in a  
4 timely manner, document disclosures will likely need to continue into January 2017,  
5 particularly depending on the outcome of Valley Health's pending motion to compel additional  
6 discovery. As explained above, the Court scheduled a hearing for this motion on December 21,  
7 2016, a date when Aetna's counsel has a preexisting scheduling conflict. The parties are  
8 mutually available for oral argument on or after January 16, 2017.

9 The parties are also engaged in a meet and confer regarding the documents identified in  
10 recent depositions. If ongoing meet-and-confer discussions fail to resolve current disputes, the  
11 Parties may need to file additional discovery motions as well.

## 12 **2. Depositions**

13 Since the Court's last amendment of the Scheduling Order, the Parties have completed  
14 additional depositions on November 16, 17, and 18, and on December 1. The Parties were  
15 scheduled to complete the depositions of three Aetna witnesses in Hartford, Connecticut during  
16 the week of December 12.

17 However, several outstanding document production issues required the postponement of  
18 those depositions. Specifically, some of the issues in Valley Health's pending motion to  
19 compel additional discovery concern these Aetna witnesses, particularly with regard to Aetna's  
20 Network Rental Agreement with MultiPlan. Similarly, a dispute has arisen regarding certain  
21 redactions on Aetna's administrative services agreements ("ASAs"), which also concern the  
22 anticipated testimony of one of Aetna's Hartford witnesses.

23 While the Parties are still in the meet-and-confer process on those redacted ASAs and  
24 will attempt to resolve the matter without the Court's involvement, the Parties are unable to do  
25 so before these previously scheduled depositions. Accordingly, the Parties have agreed to  
26 reschedule these three depositions to the week of **January 23, 2017**. Because of the number of  
27 schedules to coordinate, the Parties could not find mutually agreeable dates for these  
28 depositions before the current discovery cutoff of January 20, 2017.

1 Furthermore, during the course of the depositions taken since the Court's last  
2 amendment of the Scheduling Order, Aetna has identified at least two additional witnesses that  
3 it needs to depose before the close of discovery. The Parties are working on finding mutually  
4 agreeable dates for those depositions but, to date, are uncertain whether they will be able to  
5 complete those depositions before the current January 20 discovery cutoff.

### 6 **3. Expert Disclosures and Depositions**

7 There is a dispute concerning the expert disclosures in this case, and Valley Health has  
8 filed a related Motion to Strike. [Doc. 92.] Depending on the outcome of that motion, the  
9 Parties anticipate supplementing their expert disclosures based on evidence subsequently  
10 developed in discovery.

11 If the Motion to Strike is denied, Valley Health will seek to take the deposition of  
12 Aetna-designated expert Henry Miller. In addition, regardless of the outcome of that motion,  
13 Aetna anticipates deposing Valley Health's expert, Christopher Fritz. If Valley Health intends  
14 to supplement Mr. Fritz' initial disclosures, Aetna should not be required to depose Mr. Fritz  
15 before receiving any supplemental report. As such, the Parties have not yet scheduled Mr.  
16 Fritz's deposition, and depending on if and when Valley Health supplements its expert  
17 disclosures, it is uncertain that the Parties can complete Mr. Fritz's deposition before January  
18 20, 2017.

### 19 **III. Trial Schedule**

20 Finally, no trial is currently set in this case. As previously noted, it does not appear that  
21 the Parties are available to proceed with trial until at least July 2017 because of trials the  
22 Parties' counsel have in other matters and because of the anticipated amount of time needed for  
23 trial in this case. The extension of deadlines requested here therefore should have no impact on  
24 when this case would otherwise proceed to trial.

25 For the foregoing reasons, the Parties submit that good cause exists for the extension of  
26 the deadlines in the Scheduling Order and respectfully request the dates be revised as follows:

C. Joint Proposed Pretrial Order: April 28, 2017

DATED this 8th day of December, 2016.

DATED: December 9, 2016